

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DEANGELA SMITH , individually and on behalf of all similarly-situated individuals,	:	
	:	
Plaintiffs,	:	Case No. 2:16-CV-807
	:	
v.	:	JUDGE ALGENON L. MARBLEY
	:	
GENERATIONS HEALTHCARE	:	Magistrate Judge Kemp
SERVICES LLC, et al.,	:	
	:	
Defendants.	:	

ORDER

This matter is before the Court on Plaintiff DeAngela Smith’s motion for leave to file a Second Amended Complaint. (Doc. 41.)

Federal Rule of Civil Procedure 15(a)(2) permits a party to amend its pleading with “the court’s leave,” which it “should freely give when justice so requires.” Fed. R. Civ. P. 15(a)(2). A district court generally has “considerable discretion” in deciding whether to grant a Rule 15(a)(2) motion, but such a motion should typically only be denied if the amendment is “brought in bad faith, for dilatory purposes, results in undue delay or prejudice to the opposing party, or would be futile,” or if a party moves to amend solely “to avoid the impact of a pending dispositive motion.” *See Stark v. Mars, Inc.*, 790 F. Supp. 2d 658, 662 (S.D. Ohio 2011).

Plaintiff seeks leave to amend her Complaint only to: (1) “narrow the scope of the claims already asserted”; (2) clarify, correct, and add factual allegations that emerged during the course of discovery; and (3) remove her breach of contract claim. (*See* Doc. 41 at 1–2.) While Defendants would not consent to Plaintiff amending her Complaint (*see id.* at 3), they did not raise an objection to Plaintiff’s motion at the June 29, 2017 class certification hearing. Further,

there is no prejudice to Defendants by Plaintiff's proposed amendments at this stage of the litigation, as she is not adding any claims or substantively altering her allegations. Further, if necessary, additional discovery can be conducted on Plaintiff's amended allegations after the Court's ruling on conditional certification. Indeed, as Plaintiff points out, by narrowing her allegations and removing her breach of contract claim, the proposed amendments appear to benefit Defendants rather than prejudice them.

For these reasons, Plaintiff's motion for leave to file a Second Amended Complaint is **GRANTED.**

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

DATED: June 30, 2017